1946. File No. O. Waters/46

Legal Department

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Subject:— Opinions in connection with collection, retention and distribution of waters ——

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File No. O. Waters/46

Gen. 191 c.

421-A

C O N T E N T S.

Legal Department File O.Waters/1946.

Sr.No.	D.I. / O.No.	Subject.	Pages.
1)	6659 30-9-45.	B'bay Govt's ordinary reparian rights or rights arising out of paramountcy.	1-2.

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Office of the R.L.A.

It appers that the Sangli Durbar proposes to construct a weir across the bed of the Krishna river on the outskrits of the Sangli town. It is not known whether the scheme would adversely affect villages in British India either upstream or downstream. The R.L.A. is requested to advise on the Bombay Government's ordinary riparian rights or rights arising out of paramountcy, and the present or future constitutional relations with Sangli State.

The attention of P,W.D. is invited to the R.L.A's opinion No.9499, dated 4th November 1941 and No.8600, dated 20th November 1943 where the question of riparian rights is fully considered. "The Government of India has always possessed what may be called a common law rights to use and control in the public interest has been asserted by the legislation of more than one Province as regards the water supplies of the Provinces. 'Water supplies' is now a provincial subject for legislation and administeation, but the Central ~~Legislature~~ Legislature may also legislate upon it with regard to matter of inter-provincial concern or affecting the relations of a Province with any other territory." (see the Joint Parliamentary Committee Report p.224).

The Government of India Act, 1935 contains in section 130 to 134 provisions for settleing the complaints as to interferance with water supplies and since no Federal Geverument has since been established, the disputes between Provinces and States regarding any natural source of supply of water cannot be settled under those previsions. Such disputes, however, can, as advised by the R.L.A. in his opinion No.8373, dated 16th October 1942, be referred to arbitration after following the procedure indicated in paragraph 308 of the Montague Chelmsford Report and accepted by the Government of India by its Foreign and

Political Department Resolution No.427-R, dated 29th October 1920 (see the Report of the Indian States committee pp.37-38).

It cannot be anticipated at this stage what provisions are likely to be made in the future constitution of India to settle such disputes.

There are no paramountcy rights in this connection. Arbitration as stated above appears to be the only feasible means of settling such disputes.

Sd/- P.N.MENON.
28/9/46.

Remembrancer of Legal Affairs.

U.R. to R.C.D. No. 6659, dated the 30th September 1946.

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